

# REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES AND LOCAL GOVERNMENTS

## RURAL AREA FLEXIBILITY ANALYSIS

### JOB IMPACT EXEMPTION

#### DEPARTMENT OF TAXATION AND FINANCE

A revised Regulatory Flexibility Analysis for Small Businesses and Local Governments, Rural Area Flexibility Analysis, and Job Impact Exemption are not required to be submitted because the unsubstantial revisions made to the proposed amendments do not affect any of the statements made in these documents.

Under section 211.4 of the Tax Law, as amended by Chapter 60 of the Laws of 2007, a taxpayer is required to file a combined report with its related corporations if there are substantial intercorporate transactions among the related corporations, regardless of the transfer price of the intercorporate transactions. Related corporations are corporations that meet the ownership and control requirements of Tax Law section 211.4 and section 6-2.2 of the regulations (generally an 80 percent direct or indirect stock ownership test). In addition, a combined report may be required or permitted in the absence of substantial intercorporate transactions if a combined report is necessary in order to properly reflect the tax liability. The amendments conform the combined reports regulations to the current law and largely codify interpretations contained in a technical memorandum, TSB-M-08(2)(C), concerning the Department's interpretation of the combined reporting statutory provisions.

As a result of public comments received, several changes have been made to the proposed rule. Language has been added to sections 6-2.3(b)(2) and 6-2.3(b)(3) of the proposed rule to clarify that intercorporate cost allocations of expenditures that benefit related corporations are not considered receipts or expenditures in determining if there are substantial intercorporate transactions. It was also clarified that expenditures for service functions, such as payroll processing and personnel services, are not considered

expenditures that benefit related corporations. Additionally, it is provided that the amendments will take effect on the date the Notice of Adoption is published in the State Register and apply to taxable years beginning on or after January 1, 2013.

There are no modifications to the Regulatory Flexibility Analysis for Small Businesses and Local Governments, Rural Area Flexibility Analysis, and the Job Impact Exemption necessary as a result of these changes.